

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2799**

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**Introduced by Assembly Member Saldana**

February 22, 2008

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An act to ~~amend Section 422.6 of~~ *add Section 13024 to* the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2799, as amended, Saldana. Hate crimes.

*Existing law requires the Attorney General to direct local law enforcement agencies to report to the Department of Justice, information that may be required relative to hate crimes, as specified.*

*This bill would require each county to either establish a hate crimes commission, or direct an existing board or committee to fulfill the duties of such a commission, for the purpose of reviewing the incidents of hate crimes within the county and ensuring that local law enforcement agencies are responding to hate crimes and reporting these crimes to the Attorney General. The bill would also set forth related findings and declarations. By imposing new duties on local government officials, the bill would create a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law establishes the criminal offense commonly referred to as a “hate crime.”~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. (a) The Legislature finds and declares all of the*  
2     *following:*

3     *(1) Hate crimes are acts of terror meant to intimidate and cause*  
4     *fear in our communities to deter the free exercise of enjoyment of*  
5     *the rights or privileges secured by the United States and the*  
6     *California Constitutions and the laws of the United States and the*  
7     *State of California.*

8     *(2) The California Department of Justice reported 1,306 hate*  
9     *crimes in 2006.*

10    *(3) Although hate crimes overall decreased from 2005 to 2006,*  
11    *anti-Hispanic offenses rose 35 percent.*

12    *(4) At the county level, to provide a specific example, overall*  
13    *hate crime offenses in San Diego County rose from 139 to 181*  
14    *from 2005 to 2006.*

15    *(b) It is therefore the intent of the Legislature to require counties*  
16    *to ensure that local law enforcement agencies respond to and*  
17    *report hate crimes.*

18    *SEC. 2. Section 13024 is added to the Penal Code, to read:*

19    *13024. (a) Each county shall either establish a hate crimes*  
20    *commission or direct an existing board or committee to fulfill the*  
21    *duties of such a commission.*

22    *(b) The commission, or board or committee directed to perform*  
23    *this duty, shall review the incidents of hate crimes within the county*  
24    *and ensure that local law enforcement agencies are responding*  
25    *to hate crimes and reporting these crimes to the Attorney General,*  
26    *as required by Section 13023.*

27    *SEC. 3. If the Commission on State Mandates determines that*  
28    *this act contains costs mandated by the state, reimbursement to*  
29    *local agencies and school districts for those costs shall be made*  
30    *pursuant to Part 7 (commencing with Section 17500) of Division*  
31    *4 of Title 2 of the Government Code.*

1     SECTION 1. ~~Section 422.6 of the Penal Code is amended to~~  
2     ~~read:~~

3     ~~422.6. (a) No person, whether or not acting under color of law,~~  
4     ~~shall by force or threat of force, willfully injure, intimidate,~~  
5     ~~interfere with, oppress, or threaten any other person in the free~~  
6     ~~exercise or enjoyment of any right or privilege secured to him or~~  
7     ~~her by the Constitution or laws of this state or by the Constitution~~  
8     ~~or laws of the United States in whole or in part because of one or~~  
9     ~~more of the actual or perceived characteristics of the victim listed~~  
10    ~~in subdivision (a) of Section 422.55.~~

11    ~~(b) No person, whether or not acting under color of law, shall~~  
12    ~~knowingly deface, damage, or destroy the real or personal property~~  
13    ~~of any other person for the purpose of intimidating or interfering~~  
14    ~~with the free exercise or enjoyment of any right or privilege secured~~  
15    ~~to the other person by the Constitution or laws of this state or by~~  
16    ~~the Constitution or laws of the United States, in whole or in part~~  
17    ~~because of one or more of the actual or perceived characteristics~~  
18    ~~of the victim listed in subdivision (a) of Section 422.55.~~

19    ~~(c) Every person convicted of violating subdivision (a) or (b)~~  
20    ~~shall be punished by imprisonment in a county jail not to exceed~~  
21    ~~one year, or by a fine not to exceed five thousand dollars (\$5,000),~~  
22    ~~or by both the above imprisonment and fine, and the court shall~~  
23    ~~order the defendant to perform a minimum of community service,~~  
24    ~~not to exceed 400 hours, to be performed over a period not to~~  
25    ~~exceed 350 days, during a time other than his or her hours of~~  
26    ~~employment or school attendance. However, no person may be~~  
27    ~~convicted of violating subdivision (a) based upon speech alone,~~  
28    ~~except upon a showing that the speech itself threatened violence~~  
29    ~~against a specific person or group of persons and that the defendant~~  
30    ~~had the apparent ability to carry out the threat.~~

31    ~~(d) Conduct that violates this and any other provision of law,~~  
32    ~~including, but not limited to, an offense described in Article 4.5~~  
33    ~~(commencing with Section 11410) of Chapter 3 of Title 1 of Part~~  
34    ~~4, may be charged under all applicable provisions. However, an~~  
35    ~~act or omission punishable in different ways by this section and~~  
36    ~~other provisions of law shall not be punished under more than one~~  
37    ~~provision, and the penalty to be imposed shall be determined as~~  
38    ~~set forth in Section 654.~~

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